

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>7/21/08</u>
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
EVAN WEINER and TIMOTHY McCLAUSLAND, on :  
behalf of themselves and all others :  
similarly situated, :  
:  
Plaintiffs, :  
:  
-v- :  
:  
SNAPPLE BEVERAGE CORPORATION, :  
Defendant. :  
:  
-----X

07 Civ. 8742 (DLC)

ORDER

DENISE COTE, District Judge:

Plaintiffs filed their class action complaint in this action on October 10, 2007. Defendants moved to dismiss on November 7. Plaintiffs filed an amended class action complaint on November 20. On December 7, this Court endorsed a consent order staying this action pending the entry of a final, non-appealable decision in Holk v. Snapple Beverage Corp., No. 07 Civ. 3018 (MJC) (D.N.J.), an action substantially similar to this one. On June 13, 2008, the Honorable Mary Cooper of the United States District Court for the District of New Jersey issued a decision granting Snapple's motion to dismiss in Holk and dismissing Holk's complaint in its entirety, with prejudice. A plaintiff in Holk filed a notice of appeal to the United States Court of Appeals for the Third Circuit on July 18, 2008.

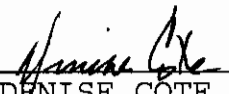
By letter dated July 17, counsel for plaintiffs in this action requested that the Court leave in place the stay entered December 7, 2007. Accordingly, it is hereby

ORDERED that defendant's November 7, 2007 motion to dismiss is denied as moot, without prejudice to its renewal.

IT IS FURTHER ORDERED that plaintiffs shall provide the Court with a status letter due March 31, 2009.

SO ORDERED:

Dated: New York, New York  
July 21, 2008

  
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DENISE COTE  
United States District Judge